

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

KRISTY S. PARKER,)
)
)
Plaintiff,))
)
v.) Case No. CIV-19-386-SPS
)
ANDREW M. SAUL, Commissioner)
of the Social Security Administration,)
)
Defendant.))

**OPINION AND ORDER AWARDING
ATTORNEY'S FEES TO THE PLAINTIFF UNDER THE EAJA**

Plaintiff Kristy S. Parker was the prevailing party in this action under the Social Security Act. Plaintiff's counsel seeks an award of attorney's fees in the amount of \$6,580.50, pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). *See* Docket No. 21. The Commissioner has no objection to the fee award.

Upon review of the record herein, the Court finds that said amount is reasonable and that the Commissioner should be ordered to pay it to the Plaintiff as the prevailing party herein. *See* 28 U.S.C. § 2412(d)(1)(A) ("Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort)[.]"); *see also Manning v. Astrue*, 510 F.3d 1246, 1251 (10th Cir. 2007) ("The EAJA therefore permits attorney's fees

reimbursement to financially eligible prevailing parties, who make a proper application, and not to their attorneys.”).

Accordingly, IT IS ORDERED that the Plaintiff’s Motion for an Award of Attorney Fees Under the Equal Access to Justice Act [Docket No. 21] is hereby granted and that the Government is hereby ordered to pay the above-referenced amount to the Plaintiff as the prevailing party herein. IT IS FURTHER ORDERED that if the Plaintiff pays over the proceeds of this award to her attorney under some pre-existing agreement and the attorney is subsequently awarded any fees pursuant to 42 U.S.C. § 406(b)(1), said attorney shall refund the smaller amount of such fees to the Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).¹

DATED this 8th day of June, 2021.



STEVEN P. SHREDER
UNITED STATES MAGISTRATE JUDGE

¹ Attorney Fred Caddell submitted this fee request on behalf of the estate of attorney David Harp, who submitted the Plaintiff’s Opening Brief in this case but passed away on September 7, 2020 prior to the issuance of the Opinion and Order. See Docket Nos. 15-20. Any reference to receipt by the “Plaintiff’s attorney” of the fees awarded hereunder and any resulting obligation to reimburse said funds in the even to fan award under Section 406(b)(1) would thus refer in fact to Mr. Harp’s estate. Mr. Caddell is waiving any fees for himself in this case. See Docket No. 21, Ex. 3.